



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC

Issued by the Department of Transportation on March 5, 2003

NOTICE OF ACTION TAKEN – DOCKET OST-96-1074 – 50

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of Polar Air Cargo, Inc. filed 11/26/2002 to:

XX Renew exemption under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of property and mail (a) between the coterminal points New York, Chicago, Anchorage, Los Angeles, Seattle and Honolulu, on the one hand, and Manila, Philippines, on the other, via the intermediate points Khabarovsk, Russia; Auckland, New Zealand; Sydney and Melbourne, Australia; Singapore; and Tokyo, Japan; and (b) beyond Manila to Taipei, Taiwan.

Applicant rep: Russell E. Pommer 202-354-3843 DOT Analyst: Gerald Caolo 202-366-2406

DISPOSITION

XX Granted (see below)

The above action was effective when taken: March 5, 2003 , through March 5, 2005

Action taken by: **Paul L. Gretch, Director**
Office of International Aviation

XX The authority granted is consistent with the aviation agreements governing air service between the United States and the Philippines, the United States and New Zealand, the United States and Singapore, the United States and Japan,¹ the United States and Taiwan, and the United States and Australia and with the overall state of aviation relations between the United States and the Russian Federation.²

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated: XX Holder's certificates of public convenience and necessity

XX Standard exemption conditions (attached)

On the basis of data officially noticeable under Rule 24(g) of the Department's regulations, we found the applicant qualified to provide the services authorized.

¹ We note that the U.S.-Japan agreement includes, for certain carriers, restrictions on intermediate and/or beyond service; in this regard, Polar can select only one foreign point to serve in conjunction with its Japan services. Polar is currently serving Seoul but can switch service to another point. As of this time, the carrier has not advised the Department of an intention to switch its existing service.

² We note that the U.S.-Russia agreement includes restrictions on intermediate and/or beyond service and thus, some operations authorized are subject to the discretionary approval of Russia.

Remarks: The authority for which Polar requested renewal expired February 1, 2003, but had been kept in force pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), as implemented by 14 CFR Part 377, pending action on its timely filed renewal application.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the exemption authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

*An electronic version of this document is available on the World Wide Web at:
http://dms.dot.gov/reports/reports_aviation.asp*

APPENDIX

U.S. CARRIER **Standard Exemption Conditions**

In the conduct of operations authorized by the attached notice, the applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR 250 (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with the applicable requirements of the Federal Aviation Administration Regulations and with all applicable U.S. Government requirements concerning security;³ and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.

³ To assure compliance with all applicable U.S. Government requirements concerning security, the holder should, before commencing any new service (including charter flights) to or from a foreign airport, inform its Principal Security Inspector of its plans.